

CALLED EDGEFIELD COUNTY COUNCIL MEETING
June 22, 2005

The Edgefield County Council held a Called Meeting on Wednesday, June 22, 2005, in the County Council Chambers, 225 Jeter St., Edgefield.

Members present

C. Monroe Kneece, Chairman
Willie C. Bright, Vice chairman
Norman Dorn, Councilman
Joel D. Hudson, Councilman
B. Everette Kitchens, Councilman

Others present

Wayne Adams, County Administrator
John F. Byrd, County Attorney
Barbara R. Stark, Clerk to Council

Chairman Kneece called the meeting to order.

Mr. Robert Croom, (SCAC Legal & Legislative Affairs) Assistant Director, and Mr. Sidney J. Evering, II, Staff Attorney, were present to give an SCAC Legislative Update on various issues.

The non-profit organization, *Women in Unity* asked Council, by correspondence, to have a representative to speak to the Edgefield County youth at their 2nd Annual Youth Rally on July 16th, and also for a donation (school supplies or monetary). This request will be addressed at the next Council meeting.

Councilman Bright made the motion, seconded by Councilman Kitchens, to approve the third and final reading of Ordinance No. 04-05-561, "An Ordinance Setting Forth Criteria for Establishing A Vested Right to Develop Property in Edgefield County." Motion carried unanimously.

Mr. Howard Gibson spoke concerning the clarification of policy on maintaining non-county roads on a fee basis. "As all of you are aware a resolution was passed recently allowing the county to work on private property (motor grader work only) if certain conditions are met and the fees are paid prior to the work. So far, we have done one with a single house, one with two homes (one property owner) and I have two – one is actually a road but is a driveway. It is on the map as a road and has been for years. Another individual has picked up an application. What we are looking for is to make sure we understand what Council is after as far as "do we do this on an individual driveway basis with them paying the fee or do you want to redefine the parameters of what we are doing as far as the conditions instead of having a blanket thing where someone comes in to pay." We do go out and look at it and if there is any danger of damaging the motor grader

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we won't do the work. In other words, if there are heavy limbs falling over, big rocks, etc., we will not do the work. Other than that we estimate the time, they sign a release and we charge them prior to doing the work." Councilman Hudson: "What would be the difference if we are getting paid for it, if you are doing it for an individual or for five people, they are still residents of this county and they are paying for it, it should not make any difference as long as equipment is not torn up?" Howard said that he and Mr. Adams wanted to make sure that we are all on the same page – if that is what the council wishes that is fine. Mr. Kneece said that what the main thing they wanted to make clear is that we do not want to spend all of our time doing driveways and ignoring our roads. Howard stated that a special trip to do this work is not made. When we are in the area passing by it is done. We don't even collect the money until right before the work is done. We don't go out of the way to do it. The charge is \$125.00 per hour. That is just motor grader work. No gravel, dirt, or bush cutting. Bush cutting will have to be done by the owner. A waiver will be signed that the county is not responsible for any damages and the county will know definitely they are on the property owners land only. The consensus of council was to continue.

Amending the FY 2005-2006 Budget to clarify that retiree health insurance benefits continue until Medicare coverage begins was the next agenda item. The budget ordinance that was passed on June 7th council included a provision for retiree health care coverage if the retiree meets two criteria. One, they have to work for Edgefield County Government for at least twenty eight (28) years and they must be at 59 ½ years old. The idea was to provide coverage until they are eligible for Medicare which is long time until the age of 65. What we realized after the budget was passed was that people born after 1938, that Medicare qualification age was gradually moved up. So, we want to make sure that those people don't end up in a gap – reaching age 65 and not qualifying for Medicare. The intent is cover them until they can get other affordable insurance, that being Medicare. Instead of saying we will cover you until 65, the amendment says until they are eligible for full Medicare benefits. This will not apply to anyone having worked with another entity such as the school system or the water and sewer department for a number of years and then coming here and working the remaining number of years and expecting the coverage. It will have to be the entire time worked with Edgefield County government. Motion was made by Councilman Bright, seconded by Councilman Hudson, to approve first reading of Ordinance No. 04-05-565, "An Ordinance Amending Section III (a)(5)(b) of Ordinance No. 04-05-560 (General Operating Budget Ordinance) to Clarify that Retiree Health Insurance Coverage Provided for therein Shall Extend until Qualification for the Federal Medicare Program." Motion carried unanimously.

At this point, the Chairman stated that before the next item concerning auction services, he wanted to go to an item not included on the agenda. Mr. Kneece asked for a motion to approved first reading of Ordinance No. 04-05-566, "An Ordinance Amending Title XV,

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Chapter 152 of the Edgefield County Code of Ordinances to Provide for an Agricultural Development Zoning District and to Establish the Definition of, and Use Restrictions Regarding, Concentrated Animal Feeding Operations (CAFOs)." Councilman Bright made the motion to accept this as first reading of Ordinance of 04-05-566, seconded by Councilman Kitchens. Motion carried unanimously.

Mr. Rodney Cato asked for clarification. Mr. Adams: "Our comprehensive plan has to reflect a need for this agricultural district that Council just had first reading, and Ordinance No. 04-05-567 amends the Comprehensive Plan to provide for that. The second thing we will ask Council for is a scheduled date for a public hearing on the ordinance.

This pertains to 100 or more animals – confined as an agricultural feeding operation. It does not include any boarding of animals or grooming.

Mr. Cato asked since this was not on tonight's agenda, how does the ordinance affect me wanting to build this facility as far as obtaining my building permit in Edgefield County. Since it is the first reading and nothing has been put into place is it only proposed? Mr. Adams: "If Council has a first reading, passes this amendment to the Comprehensive Plan which allows what goes into effect and also schedules a public hearing, you evoke what is called a Pending Ordinance Doctrine. That means you would be instructing the Building and Planning Staff not to issue any permits that would run counter to that first reading that has already taken place. So, if someone wanted to get a permit could not get it."

Mr. Cato: "My second question is being this was not on the agenda and it was the first reading, and I did not have any information to let me know other than I got a telephone call letting me know this was going to happen tonight, I guess what I am asking is that this first reading have a continuance put on it or something – no one knew this was going to happen."

Mr. Adams stated that council rule requires three of the five members to agree to place this on the agenda- that assumes to be the case that they vote in favor of it which they have done unanimously for first reading. There was no opposition to it being on the agenda. There will be a public hearing and many things can change an ordinance during the public hearing process through the second and third reading.

Mr. Cato's argument was that since the first reading had been passed he could not get a permit the next day if he asked for one. Mr. Adams agreed, if these other things are done. One of which is to also pass first reading amending the Comprehensive Plan and also schedule a date for a public hearing.

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Mr. Adams informed the chairman that several representatives from Lake Trenton were present to express their interests in this matter. Mr. Adams also suggested that if Council wants to have a vote to allow the ordinance to be on the agenda and also vote again on first reading that will be fine. The Chairman asked for a motion that all of the members are in agreement to place the ordinance on the agenda. Before a motion was made, Councilman Dorn agreed with Mr. Cato that the procedure has been somewhat confusing in terms of information – a lack of clarification. Mr. Dorn said not that he is for or against either thing that had been done but feels Mr. Cato did not have enough information prior to what had taken place. He said he did not want to be a part of anything he did not feel was fair. Councilman Bright asked about a zoning hearing Wednesday night. Mr. Adams explained to Mr. Bright that property owners from Lake Trenton asked to use our chambers for a meeting and asked the Planning Commission staff attend to clarify some things for them, such as what kind of planning laws are there and what avenues are open to them. Mr. Adams stated that he understands they are in the process of petitioning an administrative law judge. It is unclear to Mr. Adams if there is a permit.

To that statement about the permit, Mr. Cato stated that about a month ago he had his DHEC permit which allowed him to build this type of facility. Mr. Adams: “They will permit you to do it even though this protest is going on?” “Yes, I can still build it at my – might not be able to use it. This is a million dollar operation. This is not like chickens running around in the woods. There has been a little misleading information given. I want to clarify this. It is an 820 ton mass disposal pit. That is a pit that is only defined for a mass. This is not a pit that we are using. It is called a mass burial pit. Say that a tornado comes through and levels the hold area. I have 125,000 dead chickens. In that situation we have to have a described area on our map for a mass burial. This has happened twice in ten years. That is how often it has happened.”

Mark Roberts, Lake Trenton Homeowner Association spoke. “Mr. Cato says this is a million dollar operation. While that may be true, I would like to show you a tax map of the area, which has been permitted by DHEC but is under appeal at the present in administrative law court. (Mr. Roberts pointed out the site on the map.) If you look at all of the property, he may have a million dollar operation but we are talking about ten’s of million dollars worth of property. He pointed out that a county in Kentucky has had an impact study on this type of operations indicating that within a three mile radius the tax assessors can expect to lose about 2.6 million dollars of assessed value of the property. Mr. Cato’s operation will have a severe impact on the property values of all of these people and all other people in Edgefield County when they have to make up for that. We aren’t going into health issues or quality of life issues – we are talking about strict property rights as American citizens. We feel that the proposed ordinance would protect the citizens’ property rights, and also the tax valuation for Edgefield County.”

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“Mr. Cato said let’s don’t forget that we are a right-to-farm state. This is eighty (80) acres of land. The farm that we are talking about covers five acres of land, total. The five acres is dead center of the property.” (Mr. Cato pointed out other property lines that did not have houses – tree farm, produce growing on some.) Mr. Cato was asked if he owned the property. “I have a contract on this property pending my permit.”

The Administrator addressed Council that Mr. Cato’s concern was that maybe council had violated its own rules by not first voting to put it on the agenda. I had only suggested that if Council wanted to be certain that it could have such a vote, at which time Mr. Dorn had a comment to make and then re-vote the first reading. The chairman stated that it was polled and agreed upon prior to the meeting. We can go back and take a vote and re-vote.

Councilman Kitchens made the motion, seconded by Councilman Hudson to put on the agenda Ordinance No. 04-05-566. Motion carried with Councilman Dorn voting no.

Chairman Kneece asked for a motion approving first reading of Ordinance No. 04-05-566, “An Ordinance Amending Title XV, Chapter 152 of the Edgefield County Code of Ordinances to Provide for an Agricultural Development Zoning District and to Establish the Definition of, and Use Restrictions Regarding, Concentrated Animal Feeding Operations (CAFOs).” Councilman Bright made the motion to approve first reading of Ordinance No. 04-05-566, seconded by Councilman Kitchens. Motion carried with four yeas and one nay – Councilman Dorn voting no. The chairman asked for a show of hands.

Chairman Kneece asked for a motion to approve first reading of Ordinance No. 04-05-567, “An Ordinance Amending Title XV, Chapter 151 of the Edgefield County Code of Ordinances to Provide for an Agricultural Development Zoning District With Minimal Restrictions Protecting Residential Dwellings From Incompatible Land Uses.” Councilman Kitchens made a motion to accept first reading of Ordinance No. 04-05-567. Councilman Bright seconded the motion. The motion carried unanimously.

Consensus of Council was to hold a public hearing on Ordinances 04-05-566 and 567 at 6:00 P. M., Wednesday, July 20, 2005, in County Council Chambers.

The Administrator asked if Council wished to invoke the pending ordinance doctrine, which means that if anyone thereafter comes and asks for a permit that is in conflict with first reading, then the Planning staff would not issue such a permit.

Mr. Cato: “Mr. Adams, would you repeat what you just said?”

Mr. Adams: “The final matter for Council to consider regarding the issues whether or not they want a simple vote of Council that it wants to invoke the pending ordinance

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doctrine. If it does, that means that tomorrow and thereafter the Planning staff will not issue any permits that will be in conflict with the contents of first reading.” The Chairman asked for a motion to approve the pending ordinance. Motion was made by Councilman Kitchens, seconded by Councilman Bright to approve. Motion carried.

The Chairman asked for a motion to go into executive session concerning the next item of business, Auction Service for the Sale of Road Maintenance Equipment. Councilman Kitchens made the motion to go into executive session (Section 30-4-70 (A)(2) of the South Carolina Code of Laws 1976, to negotiate a contract and return to regular session at the discretion of the Chairman. Councilman Bright seconded the motion.

Returning to regular session, Councilman Hudson made the motion to accept the proposal of J. M. Woods to sell surplus equipment, Exhibit A. Motion seconded by Councilman Kitchens. Motion carried unanimously.

There being no further business, the meeting adjourned.

C. Monroe Kneece, Chairman

Willie C. Bright, Vice Chairman

Norman Dorn, Councilman

Joel D. Hudson, Councilman

B. Everette Kitchens, Council

ATTEST

Barbara R. Stark, Clerk to Council

